

2011 Annual Report

Property Assessment Appeal Board

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Board Profile

The Property Assessment Appeal Board is a quasi-judicial administrative tribunal established under the *Assessment Act*. It is the second level of appeal following the Property Assessment Review Panels.

The most common issues in assessment appeals are:

- What is the actual or market value of the property?
- Is the assessment equitable?
- Is the property correctly classified?
- Does the property qualify for a tax exemption?

An effective and independent appeal system is critical to maintain taxpayer's confidence in the accuracy and integrity of the assessment roll.

The Board's objectives are:

- To resolve appeals justly and consistently, in accordance with the principles of natural justice and procedural fairness.
- To complete appeals as quickly and efficiently as possible, within budget and at minimum cost to participants and the Board.

The Board is independent from the Property Assessment Review Panels and BC Assessment, and is accountable to the Minister of Community, Sport and Cultural Development. The Board has a full-time Chair, two full-time Vice Chairs and 18 part-time members, a Registrar and five support staff. The names and term expiry dates of the Board Members serving in the past year are at Appendix 2.

A glossary of terms used in this report is at Appendix 3.

Board Members



Standing left to right: John Cockwell, Rosemary Barnes, John Bridal, Audrey Suttorp, Dale Pope, Brian McConnell, Kenneth Thornicroft, Allan Beatty, Don Risk

Sitting left to right: Patricia Begg, Bob Kasting, Simmi Sandhu, Cheryl Vickers, Valli Chettiar, Harvey Pearson, Jeffery Hand

Missing from picture: John Collins, Christopher Hope, Shiela Lange, Dave Lee, Bruce Maitland

Report on Performance

Key Challenges and Targets

The Board's main challenges and targets for 2011 were:

1. To complete the new 2011 appeals.
2. To complete any remaining older appeals, including those that come out of the contingent category once the Courts release related decisions.
3. To register and acknowledge the 2011 appeals by May 31, 2011.
4. To issue at least 90% of written decisions within 90 days from the hearing.
5. To complete or schedule for hearing by March 31, 2011, 75 to 85% of the active 2010 commercial and industrial appeals.
6. To complete or hear by December 31, 2011, 90 to 100% of the 2011 residential, farm and recreation property appeals.

Results

| Challenge or Target | Result by Dec. 31, 2011 |
|---|---|
| 1. 2011 appeals | reduced by 70% |
| 2. older appeals (2010 and earlier) | reduced by 68% |
| 3. registration of 2011 appeals | completed on May 26, 2011 |
| 4. timeliness of written decisions | 98% completed within 90 days |
| 5. 2010 commercial & industrial property appeals | 84% completed or scheduled for hearing by Mar. 31, 2011 |
| 6. 2011 residential, farm & recreational property appeals | 96% completed or heard by Dec. 31, 2011 |

The main parties to appeals continue to work collaboratively towards resolving appeals, making it possible for the Board to exceed its performance targets.

The following table illustrates the Board's activities compared to the two previous years:

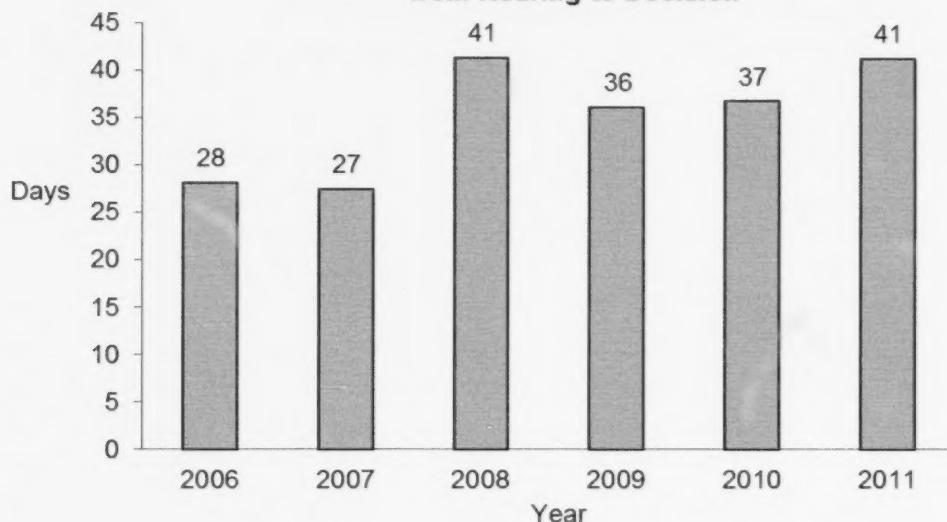
| Activity | 2011 | 2010 | 2009 |
|---|-------------|-------------|-------------|
| New appeals received in year | 2,052 | 2,166 | 1,412 |
| Carry over from earlier years | 865 | 439 | 781 |
| Total appeal workload | 2,917 | 2,605 | 2,193 |
| Appeals completed during the year | 2,021 | 1,740 | 1,754 |
| # and % of appeals resolved without a hearing | 1,808 (89%) | 1,540 (88%) | 1,585 (90%) |

The Board was able to respond to the higher workload in 2011, by increasing appeal completions (up by 281 over 2010). The Board maintained a high resolution rate, without the need for adjudicative hearings. When appeals settle, they are either withdrawn, and there is no change to the assessment, or the parties reach an agreement to change the assessment. If an appeal is not settled, the Board will make a decision following either an oral hearing or written submissions from the parties. Appendix 5 provides statistics on how the Board completed appeals in 2011.

Approximately 47% of the Board's decisions (whether by agreement or adjudication) resulted in a change to the assessment.

The average time to complete a written decision following a hearing increased to 41 days in 2011. This was, however, within the Board's service objectives of 60 days for residential appeals and 90 days for commercial and industrial appeals. The length of time varies depending on the complexity of appeals and workload of the Board members.

Figure 1 - Average Number of Days from Hearing to Decision



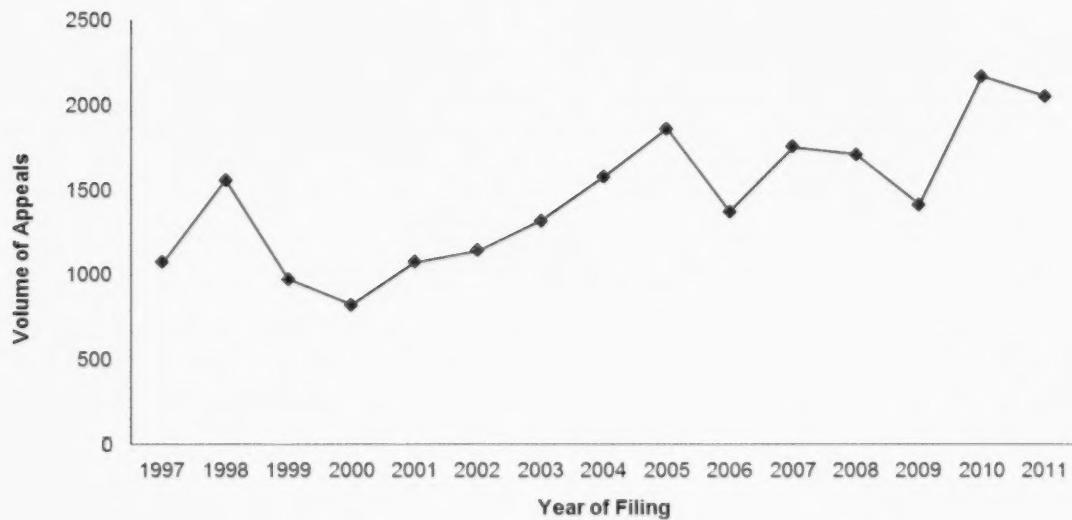
Analysis of Outstanding Appeals

Volume of New Appeals

The Board received 2,052 new appeals in April 2011, a 5% decrease from last year. This volume is still high compared to the annual average of 1,456 over the last 15 years.

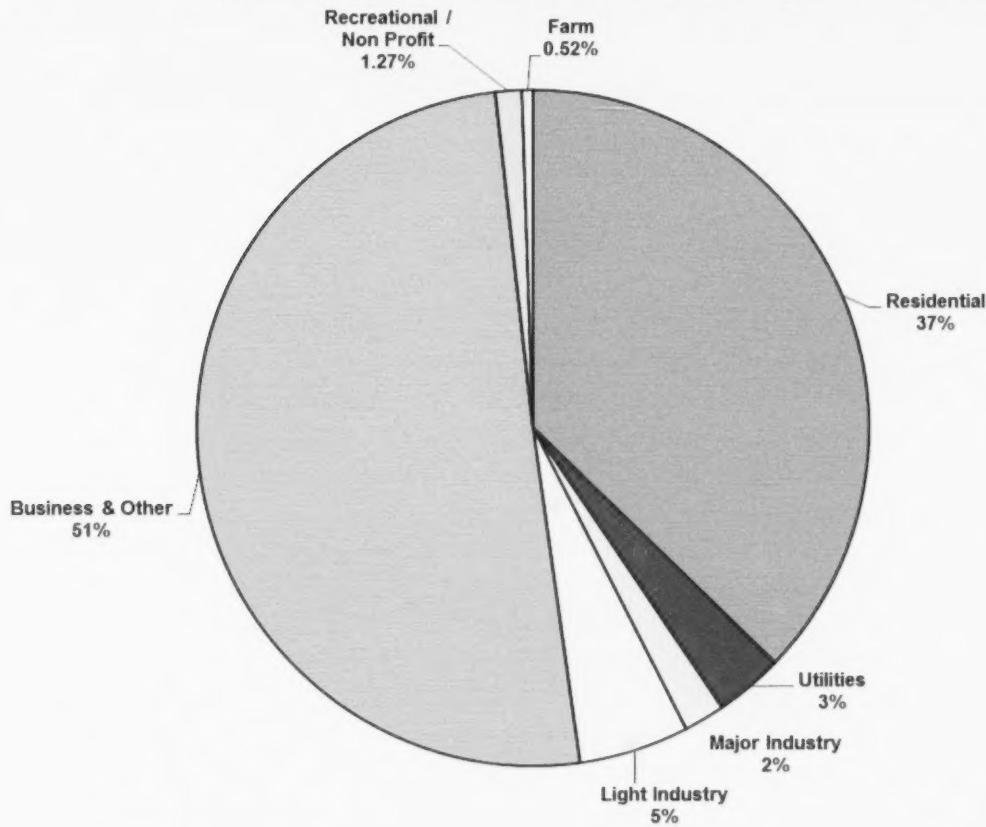
Combining the new appeals with the remaining previous year appeals, the Board faced a 12% increase in its overall appeal workload in 2011.

Figure 2 - Change in Volume of Property Assessment Appeals



As is typical, the majority of appeals were from commercial, industrial, and residential assessments. The commercial and industrial appeals are typically more complex requiring more Board resources to resolve.

Figure 3 - Portion of Appealed Properties by Classification

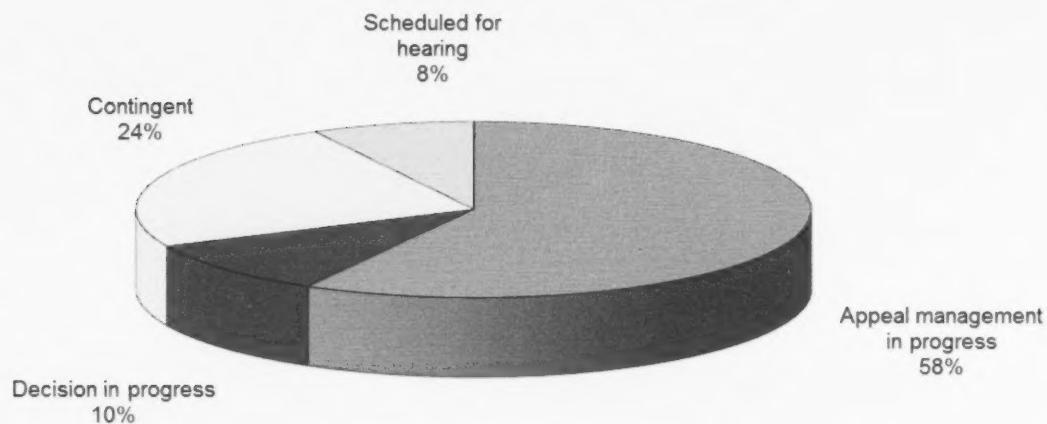


Year-end Position

As of December 31, 2011, there were 896 outstanding appeals. This is slightly higher than the previous year-end, primarily due to the high volume of new appeals two years in a row.

Following is a breakdown of the status of the outstanding appeals at December 31, 2011:

Figure 4 - Status of Outstanding Appeals



For the majority of outstanding appeals (in Appeal management in progress), the Board is working with the parties to resolve as many of the issues as possible through mutual agreement. If further discussion will not likely result in resolution, a written submission or in-person hearing is scheduled.

Contingent appeals have very similar issues to other appeals that are being heard by the Board or the Courts. The Board cannot move forward on these contingent appeals until the related appeals conclude.

The proportion of contingent appeals increases with older appeals. At year-end, 12% of the 2011 property assessment appeals were contingent, whereas 52% of the 2010 and older appeals were in this category. The majority of the older appeals are pending resolution of a single issue: whether taxing jurisdiction rests with a First Nation, or a municipal or provincial authority. Once this issue is determined, either by the Courts or by negotiation, these appeals will almost immediately be resolved.

The majority of outstanding appeals (57%) are in Greater Vancouver, given the population and business distribution throughout the Province.

Figure 5 - Regional Distribution of Appeals

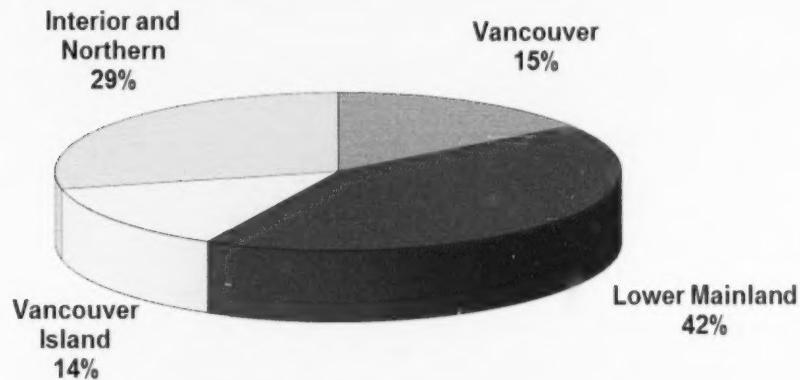


Figure 6 illustrates the portion of appeals completed by appeal year.

Figure 6 - Completed appeals by the year of original filing

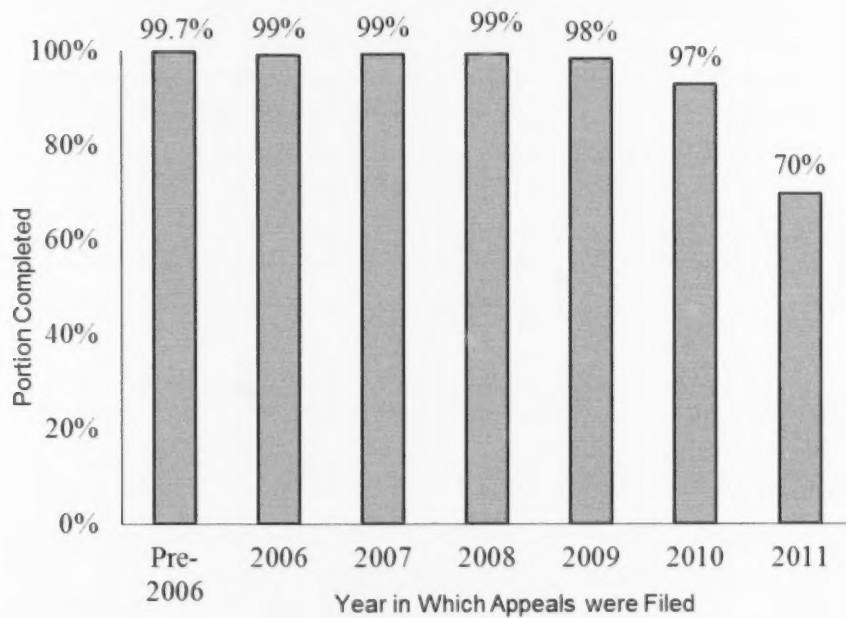
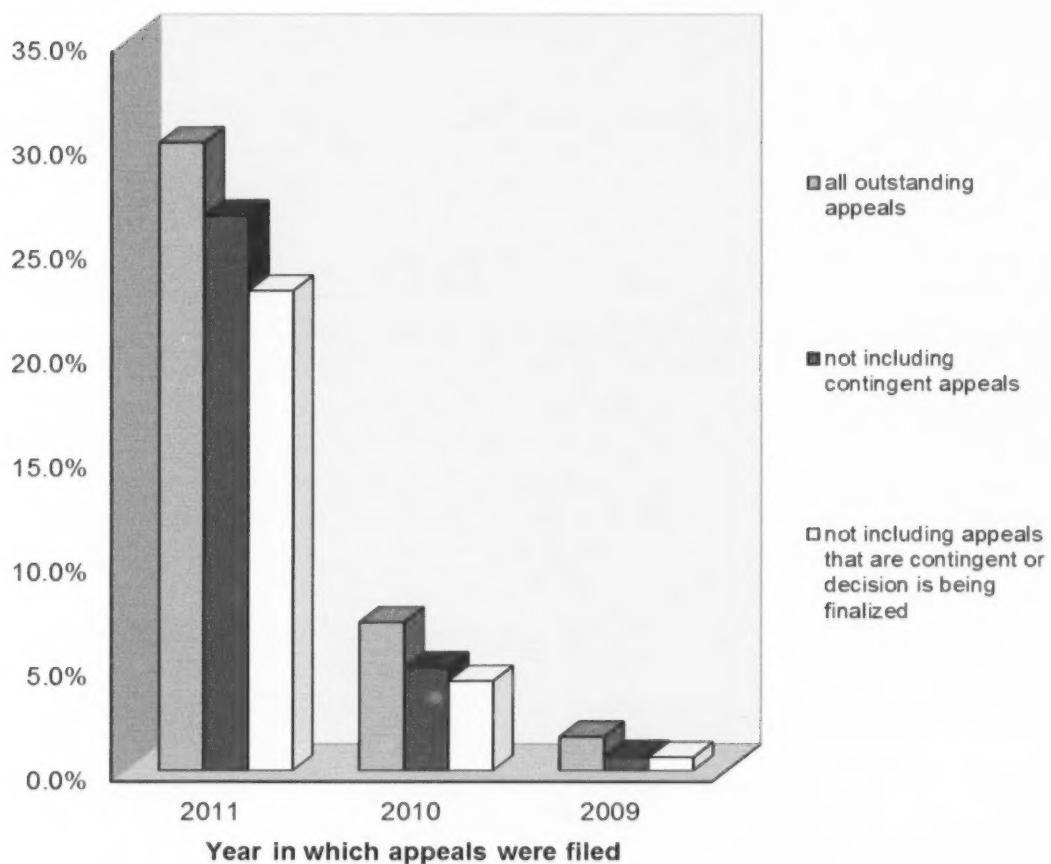


Figure 7 illustrates outstanding appeals as a percentage of the total originally filed. For a more accurate picture of the unresolved appeals at year-end, the portion outstanding is adjusted for:

- Appeals that are contingent; and
- Appeals that are effectively complete (i.e. have been heard or resolved but the Board's final orders have not been published).

After these adjustments, the effective portions of outstanding 2011, 2010 and 2009 appeals as of December 31, 2011 were 23%, 4.3% and 0.6%, respectively.

Figure 7 - Portion of Appeals Outstanding



More detailed statistics are provided in Appendices 4 to 7.

Appeals to the Courts

A person affected by a decision of the Board may appeal to the B.C. Supreme Court on a question of law using a process called a stated case. The request to state a case must be made within 21 days of receiving the Board's decision. The decision of the Supreme Court may be appealed to the B.C. Court of Appeal with leave.

At the beginning of 2011, five stated cases from previous years were outstanding before the B.C. Supreme Court. During the year, four new stated cases were filed. The Court confirmed the Board's decision in three appeals and two cases were abandoned. At year-end, four stated cases were still before the B.C. Supreme Court.

At the beginning of 2011 there were two cases before the Court of Appeal. The Court referred one case back to the Board and other case is still before the Court. No new cases were filed during the year.

There were no applications in 2011 for leave to appeal to the Supreme Court of Canada.

Responses to Challenges in 2011

The Board used the following strategies to resolve appeals, which have proven to be the most effective over the last few years:

1. Teleconferences for all residential appeals to assist the property owners and BC Assessment to identify issues, assess the merits of their positions, and to encourage settlement.
2. Adjudication by written submission hearing for residential appeals that did not settle (unless circumstances required an oral hearing). This method of adjudication is less costly than in-person hearings, as participants do not have to travel to a hearing or take time off work to attend. It also allows appeals to be completed sooner.
3. In-person meetings and telephone conferences with tax agents and BC Assessment to deal with groups of commercial and industrial appeals. This approach is more efficient and effective than the former appeal management practice of dealing with appeals on an individual basis.
4. Exchange of Statements of Issues, Evidence, and Analysis for more complex commercial and industrial appeals. This tool accelerates the disclosure and examination of the *detailed* appeal issues and can assist in the earlier resolution of appeals.
5. Require early disclosure by the parties of assessment and property information, eliminating associated delays and allowing the Board to focus resources on substantive rather than procedural disputes.
6. Selective use of a "self management" approach. Tax agents and BC Assessment hold resolution discussions on their own with progress reports back to the Board. If it becomes evident resolution is not likely (or the progress is not timely enough), the Board assumes more hands-on appeal management. This strategy allowed the Board to handle the increased workload with existing resources. It also allowed the Board to concentrate efforts on the cases which required direct intervention.
7. Settlement Conferences to narrow the issues and settle appeals without the need for hearings.

For most of the first three quarters of 2011, one of the Board's two Vice Chair positions was vacant. One of the primary responsibilities of the Vice Chair (along with the Chair and Registrar) is to manage a portfolio of appeals – seeking resolution for as many as possible. To manage during this period, which coincided with our peak appeal season, the Board trained two additional part-time Board members to assist in resolving

residential appeals. This "temporary fix" enabled the Board to meet its completion and timeline targets for 2011. The Vice-Chair position was filled in September 2011 by Valli Chettiar.

Other Activities

Consultation with the Assessment Community

In April 2011, the Board held a forum with tax agents, legal counsel and BC Assessment to obtain feedback on the appeal management strategy for 2011 commercial and industrial appeals. The consensus was that the Board should maintain the same approaches that have proven successful in recent years including early identification of issues, self-disclosure of appeal and property information, use of selective self management, and settlement conferences.

Board Member Training and Continuing Education

The Board held its annual meeting in October 2011 to provide continuing education and skills training to members. This meeting was held to coincide with the BC Council of Administrative Tribunals annual education conference, which some Board members also attended.

Transformation with Technology

The Board was one of six tribunals in BC that held transformation workshops coordinated by the Ministry of Attorney General. These strategic sessions focused on how the Board can change the way it does business and increase public access through technology. One staff member from the Board was seconded to the provincial team, which conducted the workshops and developed a submission to Government under the Transformation & Technology initiative.

On-line Dispute Resolution pilot

As a result of the transformation workshops, the Board initiated a pilot project to test the benefits of on-line dispute resolution software. Starting in February 2012, three tax agents and three BC Assessment offices will pilot the software to resolve a batch of 2011 and 2012 appeals. While on-line dispute resolution may not work for all appeals, it has promise to expand web-based services. This technology may be especially attractive to the new generation of tech-savvy clients, and those in more remote communities.

Board Finances

The Board's budget for April 1, 2011 to March 31, 2012 is \$1.3 million, fully funded from the property tax levy and appeal fees.

The budget and estimated expenditures for 2011/2012, compared with the past five fiscal years, are as follows:

Figure 8 – Budget versus Actual Expenditures by Fiscal Year (\$000's)

| Fiscal Year | Budget ¹ | Actual | Under/(Over) | % |
|----------------------|---------------------|---------|--------------|-----|
| 2011/12 ² | \$1,287 | \$1,287 | \$0 | 0% |
| 2010/11 | \$1,277 | \$1,143 | \$134 | 10% |
| 2009/10 | \$1,486 | \$1,247 | \$239 | 16% |
| 2008/09 | \$1,578 | \$1,504 | \$74 | 5% |
| 2007/08 | \$1,448 | \$1,394 | \$54 | 4% |
| 2006/07 | \$1,474 | \$1,410 | \$64 | 4% |

Notes:

1. The above budget figures are inclusive of revenue from appeal fees.
2. Expenditures for fiscal year 2011/12 are forecasted based on actual expenditures to Dec. 31, 2011.

The Board forecasts it will fully spend its budget for fiscal 2010/11. The Board collected \$105,000 in appeal fees and forecasts billing the Ministry of Energy and Mines \$46,000 for services to the Surface Rights Board. These revenues reduce the overall funding requirement from the property tax levy.

A further breakdown of expenditures is provided in Appendix 8. Board Member fees and expenses are forecasted to increase in 2011/12 due to the high volume of appeals and coverage for the vacant Vice Chair position.

Looking Forward

Challenges for 2012

With the vast majority of residential appeals being completed, the Board will need to concentrate resources on resolving the remaining commercial and industrial appeals. It will facilitate additional dispute resolution, however, if these appeals are not resolved in the first quarter of 2012, most will be scheduled for adjudication.

The Board must also monitor the contingent appeals. Once related Court and Board decisions are rendered, the Board will work with the parties to resolve or adjudicate these appeals.

In May 2012, the Board must start resolving the newly filed 2012 appeals. While the Board has not yet held its 2012 consultation meeting with the assessment community, it anticipates using the same dispute resolution strategies which have proven effective.

Targets for 2012

The Board has set the following targets for 2012 based on its mission, objectives, and past performance:

1. To complete registration and acknowledgement of the 2012 appeals by May 31, 2012.
2. To issue at least 90% of written decisions within 90 days from the hearing.
3. To complete or schedule for hearing by March 31, 2012, 75 to 85% of the active 2011 commercial and industrial appeals.
4. To complete or hear by December 31, 2012, 90 to 100% of the 2012 residential, farm and recreation property appeals.
5. To complete or schedule for hearing by March 31, 2013, 75 to 85% of the active 2012 commercial and industrial appeals.

These completion targets will be reviewed once the volume of appeals is known – following the April 30th appeal deadline. The Chair of the Board will discuss any proposed revisions with the Minister of Community, Sport and Cultural Development. Despite any performance target, the Board must ensure that appeals are resolved in accordance with the principles of procedural fairness. Whenever there is a conflict between a performance target and these principles, natural justice and due process must prevail.

Appendix 1

Staff and Full-time Board Members



Left to right: Leslie Gilker, Deputy Registrar; Simmi Sandhu, Vice Chair; Sheila Lee, Decision Processor; Cheryl Vickers, Chair; Michelle Hannigan, Administration & Systems Coordinator; Valli Chettiar, Vice Chair; Gwen Marriott, Administrative Assistant; Steve Guthrie, Registrar. Isabella Chin, Business Analyst (missing from this picture)

Appendix 2

Board Members

| Name | Position | Term Expiry Date |
|---------------------|-----------------|-------------------------|
| Rosemary Barnes | Member | December 31, 2012 |
| Allan Beatty | Member | December 31, 2012 |
| Patricia Begg | Member | December 31, 2013 |
| John Bridal | Member | December 31, 2013 |
| Valli Chettiar | Vice Chair | August 31, 2015 |
| John Cockwell | Member | December 31, 2011 |
| John Collins | Member | December 31, 2012 |
| Robert Fraser | Vice Chair | January 31, 2011 |
| Jack Hall | Member | March 15, 2011 |
| Jeffrey Hand | Member | January 31, 2014 |
| Christopher Hope | Member | December 31, 2013 |
| Bob Kasting | Member | December 31, 2013 |
| David Lee | Member | December 31, 2012 |
| Bruce Maitland | Member | December 31, 2013 |
| Brian McConnell | Member | December 31, 2013 |
| Harvey Pearson | Member | December 31, 2014 |
| Dale Pope | Member | December 31, 2012 |
| Don Risk | Member | December 31, 2013 |
| Simmi Sandhu | Vice Chair | December 31, 2013 |
| Audrey Suttorp | Member | December 31, 2013 |
| Kenneth Thornicroft | Member | December 31, 2013 |
| Shiela Lange | Member | December 31, 2012 |
| Cheryl Vickers | Chair | December 31, 2013 |

Appendix 3

Glossary of Terms

Appeal Management Conference (AMC)

The main purpose of an AMC is to clarify the issues and set steps to resolve the appeal. Most AMCs are conducted by telephone. The parties discuss the issues and the Board can make a variety of orders, such as for the disclosure of documents. If resolution does not appear likely, the appeal is usually scheduled for written submission or an in-person hearing. Some complex appeals may have several AMCs before they are heard.

Contingent

Contingent appeals are held pending action on other appeals before the Courts or the Board. Usually this occurs when the appeal issues are very similar and it is more appropriate to hold the appeal until the Court or Board makes a decision on the other appeal.

Decision in Progress

This term is used in the statistical appendices. It includes appeals that have had a hearing and the Board is in the process of preparing a written decision. It also includes appeals in which the Board is preparing an order on a dismissal, withdrawal or recommendation to change the assessment.

Dismissal Order

The Board may issue an order dismissing an appeal due to two circumstances:

1. The Board does not have jurisdiction to deal with an appeal; or
2. A party (specifically the Appellant) does not comply with a Board order during the appeal.

When appeals are received, the Registrar will write to the parties with his opinion on whether the Board has jurisdiction based on the criteria in the *Assessment Act*. If a party disagrees with the Registrar, he/she can ask the Board to reconsider.

Recommendation

When the parties mutually agree to change the assessment, they submit a joint "Recommendation" to the Board. If the Board is satisfied that the recommended changes conform with its mandate to ensure the accuracy and consistency of assessments, it will issue an order requiring BC Assessment to implement the changes.

Roll Number

The roll number is a distinctive number assigned to each entry on the assessment roll. Generally every property has a roll number and receives an individual assessment. Where the properties comprise a single entity, more than one property may be assigned one roll number. In some cases a property can have more than one roll number.

Settlement Conference

The purpose of a Settlement Conference is to reach mutual agreement on all or some of the appeal issues. A Board member facilitates this Conference and discussions are held without prejudice to the position that may be taken if the appeal proceeds to a hearing. Discussions at Settlement Conferences are confidential and any documents submitted do not become part of the public record.

Withdrawal

An Appellant may apply to the Board to discontinue their appeal at any time before a hearing. If approved, the Board will issue an order permitting the withdrawal and closing the appeal.

Appendix 4
2011 Property Assessment Appeal Completion Results Compared to 2010

| Period | Appeals at Beginning of Period | Appeals at December 31 | Appeals Completed Within Period | % Completed in Period |
|------------------------|--------------------------------|------------------------|---------------------------------|-----------------------|
| 2011 | | | | |
| New Appeals | 2,052 | 618 | 1,434 | 70% |
| Prior Year Appeals | 865 | 278 | 587 | 68% |
| Year 2011 Total | 2,917 | 896 | 2,021 | 69% |
| 2010 | | | | |
| New Appeals | 2,166 | 710 | 1,456 | 67% |
| Prior Year Appeals | 439 | 155 | 284 | 65% |
| Year 2010 Total | 2,605 | 865 | 1,740 | 67% |

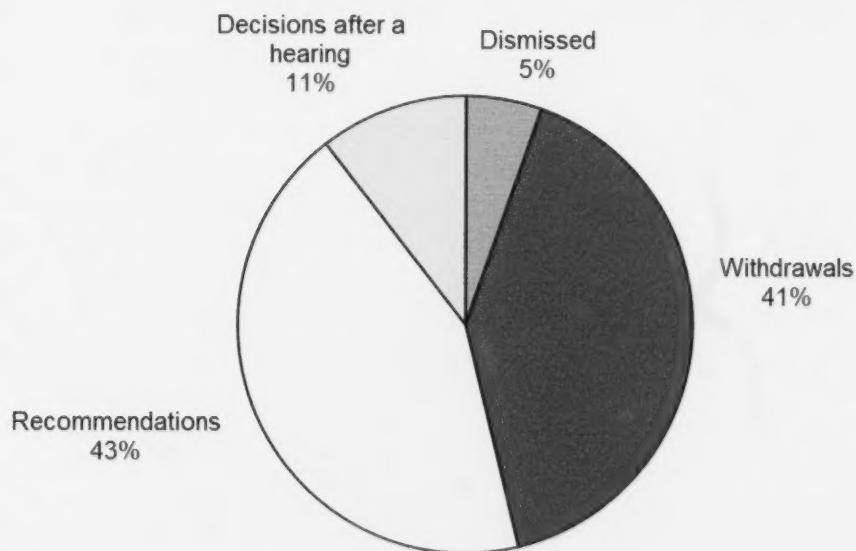
Appendix 5
Property Assessment Appeals Completion Results by Appeal Year

| Year filed | Appeals at Beginning of Year | Method of Completion | | | | Total Completed | Appeals Outstanding at Dec 31/11 |
|-------------------|------------------------------|----------------------|-------------|-----------------|--|-----------------|----------------------------------|
| | | Dismissed | Withdrawals | Recommendations | Decisions after a hearing ¹ | | |
| 2011 ¹ | 2,052 | 99 | 612 | 572 | 151 | 1,434 | 618 |
| 2010 | 710 | 10 | 209 | 284 | 53 | 556 | 154 |
| 2009 | 44 | 0 | 3 | 14 | 4 | 21 | 23 |
| 2008 | 20 | 0 | 0 | 3 | 5 | 8 | 12 |
| 2007 | 13 | 0 | 0 | 1 | 0 | 1 | 12 |
| 2006 | 12 | 0 | 0 | 0 | 0 | 0 | 12 |
| Pre-2006 | 66 | 0 | 1 | 0 | 0 | 0 | 65 |
| TOTAL | 2,917 | 109 | 825 | 874 | 213 | 2,021 | 896 |

Notes:

1. Decisions can be made through an in-person hearing or by way of written submissions from the parties.
2. With an appeal deadline of April 30th each year, the time period for completing 2011 appeals is from May 1 to December 31.

Method of Completion of Appeals in 2011



Appendix 6
Summary of Outstanding Property Assessment Appeals

| APPEAL STATUS | OUTSTANDING APPEALS | | | | | | |
|---------------------------------|---------------------|---------------------------|-----------|-------------|--------------------------|-----------|-----------|
| | TOTAL | 2011 APPEALS ¹ | | | PRIOR YEARS ² | | |
| | | Dec 31/11 | Dec 31/11 | April 30/11 | Inc./(Decr.) | Dec 31/11 | Dec 31/10 |
| Appeal Management in Progress | 521 | 439 | 2,052 | (79%) | 82 | 599 | (86%) |
| Scheduled For Hearing | 70 | 33 | 0 | N/A | 37 | 60 | (38%) |
| Pending Board or Court Decision | 216 | 72 | 0 | N/A | 144 | 174 | (17%) |
| Decision in Progress | 89 | 74 | 0 | N/A | 15 | 32 | (53%) |
| Total Outstanding Appeals | 896 | 618 | 2,052 | (70%) | 278 | 865 | (68%) |

Notes:

1. May 2, 2011 was the filing deadline for the 2011 appeals.
2. Includes all outstanding appeals to the Board from the 2010 and earlier rolls.

Appendix 7
Board Activities in 2011 Compared to Prior Years

| Board Activity | Results in year: | | | | |
|---|-------------------------|-------------|-------------|-------------|-------------|
| | 2011 | 2010 | 2009 | 2008 | 2007 |
| Overall Appeal Caseload | | | | | |
| New Appeals Registered | 2,052 | 2,166 | 1,412 | 1,707 | 1,883 |
| Prior Year Appeals (beginning of year) | 865 | 439 | 781 | 619 | 1,359 |
| Total Appeals | 2,917 | 2,605 | 2,193 | 2,326 | 3,242 |
| Appeal Management Conferences (AMCs) | | | | | |
| # of AMCs Conducted | 769 | 775 | 625 | 767 | 744 |
| # of Appeals Involved | 1,568 | 2,109 | 2,626 | 2,246 | 2,975 |
| Settlement Conferences Held | 40 | 18 | 44 | 23 | 29 |
| Hearing Statistics | | | | | |
| # of In-Person Hearings | 18 | 12 | 19 | 22 | 35 |
| # of Hearing Days | 49 | 25 | 40 | 48 | 76 |
| # heard by Written Submissions | 163 | 144 | 105 | 134 | 137 |
| Appeal Completion Method | | | | | |
| By withdrawals/dismissal orders | 933 | 862 | 787 | 730 | 1,355 |
| By recommendations | 824 | 678 | 793 | 626 | 1,015 |
| By decisions after a hearing | 213 | 200 | 169 | 189 | 233 |
| Appeals | | | | | |
| Number Completed | 1,970 | 1,740 | 1,749 | 1,565 | 2,603 |

Appendix 8

Breakdown of Expenditures (\$000's)

| Fiscal Year ¹ | Salaries & Benefits | Members Fees & Exp. | Travel Expenses | Occupancy Expenses | Systems & Telecommun. | Office & Misc. Exp. | Total Expenses | Less SRB & GVTA ² | Net Expenses |
|--------------------------|---------------------|---------------------|-----------------|--------------------|-----------------------|---------------------|----------------|------------------------------|--------------|
| 2011/12 | 768 | 250 | 9 | 113 | 134 | 59 | 1,333 | 46 | 1,287 |
| 2010/11 | 769 | 151 | 16 | 113 | 132 | 44 | 1,225 | 82 | 1,143 |
| 2009/10 | 772 | 140 | 34 | 110 | 158 | 33 | 1,247 | 61 | 1,186 |
| 2008/09 | 836 | 256 | 39 | 92 | 216 | 65 | 1,504 | 93 | 1,411 |
| 2007/08 | 827 | 209 | 35 | 81 | 177 | 65 | 1,394 | 125 | 1,269 |
| 2006/07 | 832 | 188 | 16 | 83 | 231 | 61 | 1,410 | 76 | 1,335 |
| 2005/06 | 788 | 172 | 25 | 83 | 190 | 58 | 1,315 | 0 | 1,315 |

Notes:

1. Expenditures for fiscal year 2011/12 are forecasted based on actual expenditures to December 31, 2011.
2. The costs recovered for services to the Surface Rights Board (SRB) for years 2007/08 to 2011/12 and the Greater Vancouver Transportation Authority (GVTA) for years 2005/06 to 2007/08 are deducted to arrive at the net expenses for the Property Assessment Appeal Board.